

MEMO# 33860

October 26, 2021

EBA Issues Final Regulatory Technical Standards on Disclosure of Investment Policy by Investment Firms

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TO: ICI Members

ICI Global Members SUBJECTS: Compliance

Disclosure

Fund Governance

Intermediary Oversight

Investment Advisers

Operations

Transfer Agency RE: EBA Issues Final Regulatory Technical Standards on Disclosure of Investment Policy by Investment Firms

Last week, the European Banking Authority (EBA) published its final report containing regulatory technical standards (RTS) on disclosure of investment policy by investment firms,[\[1\]](#) substantially as proposed.[\[2\]](#) The RTS are meant to gather from investment firms disclosures designed to help stakeholders understand investment firms' potential influence over the companies in which they have voting rights and the impact of investment firms' policies on aspects such as the governance or management of those companies.

Background

The EBA received a mandate under Article 52(3) of Investment Firms Regulation (IFR)[\[3\]](#) to develop in consultation with the European Securities and Markets Authority RTS to specify templates for investment policy disclosure of in-scope investment firms. Only investment firms that do not meet the conditions for qualifying as small and non-interconnected investment firms set out in Article 12(1) IFR (Class 2 investment firms) must disclose information about their investment policy. Moreover, the IFR specifies two materiality thresholds for the application of this disclosure requirement. It applies only to:

- Class 2 investment firms with on- and off-balance sheet assets on average greater than EUR 100 million over the four-year period immediately preceding a given financial year; and
- those companies whose shares are admitted to trading on a regulated market (in the

European Economic Area) and in which the proportion of voting rights exceeds 5 percent of all voting rights issued by the company.

IFR sets out a requirement for in-scope investment firms to disclose the following information:

- Proportion of voting rights attached to shares held;
- Voting behaviour;
- Use of proxy advisor firms; and
- Voting guidelines.

Summary of the Final Report

In-scope investment firms will satisfy these new disclosure requirements by completing templates (containing quantitative information) and tables (containing qualitative information).^[4] This information will be published on a yearly basis. The final requirements are substantially similar to those proposed earlier this year.

The objective of this disclosure is "to publicise information about the intended influence of investment firms on companies in which they hold shares. For instance, investment firms may adopt policies that promote better governance in the companies in which they have invested or ensure that these companies are managed with a long-term perspective."

The EBA made a few notable policy choices in developing the RTS. It has:

- Broadly defined "shares held indirectly" by investment firms, to include shares held by subsidiaries or any other undertakings of investment firms, where an investment firm exercises significant influence or where close links exist (also included are shares under the investment firm's management on behalf of clients, unless voting rights are retained by shareholders by virtue of a contractual arrangement prohibiting the investment firm to vote on their behalf);
- Included disclosure of information on resolutions put forward by shareholders, in addition to those put forward by the administrative or management body; and
- Split proxy advisor firms into those that give voting recommendations and those that only execute voting instructions in the disclosure of the use of those firms.

Next Steps

These final RTS were submitted to the European Commission for adoption. The first disclosure date is expected to be 31 December 2021.

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endnotes

^[1] Available at

www.eba.europa.eu/sites/default/documents/files/document_library/Publications/Draft%20Technical%20Standards/2021/RTS%20on%20disclosure%20of%20investment%20policy%20by%20investment%20firms/1022201/Final%20Draft%20RTS%20disclosure%20investment%20policy%20by%20IF%20%28Art%2052%20IFR%29.pdf.

[2] For a detailed summary of the proposal, see ICI Memo to Members No. 33539, dated May 18, 2021. ICI Global submitted a comment letter on the proposal, *available at* www.ici.org/system/files/2021-07/33638a.pdf.

[3] Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014.

[4] The RTS include two annexes, which contain the templates, tables, and related instructions. They are available here: www.eba.europa.eu/eba-publishes-final-draft-regulatory-technical-standards-disclosure-investment-policy-investment.

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